

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

JAMES C. WINDING (MDOC # K-8115)

PLAINTIFF

VS.

CIVIL ACTION NO. 3:13cv385-TSL-JMR

TYEASA EVANS, F. SHAW, F. OVALLE,
R. RICE, D. SMITH, MTC, INC., R. DAVIS,
MICHAEL WHITE, E.L. SPARKMAN,
ANTHONY COMPTON, JIM NORRIS,
KEITH BALL, CHRISTOPHER EPPS,
D. HUGGINS, M. POWE, H. HOLLIE,
A. HODGSON, V. RIVERA, AND L. PRUDE

DEFENDANTS

**MOTION TO STRIKE ATTACHMENT TO
PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT**

COME NOW Defendants F. Shaw, F. Ovalle, R. Rice, D. Smith, Management & Training Corporation (improperly sued as MTC, Inc.), R. Davis, D. Huggins, M. Powe, H. Hollie, A. Hodgson, V. Rivera, and L. Prude, and file this their Motion to Strike Attachment to Plaintiff's Motion for Partial Summary Judgment, as follows:

1. All of the material contained in the supplement [Docket No. 21-1] to Plaintiff's Motion for Partial Summary Judgment [Docket No. 21] – purported news articles and blog posts printed off the Internet – is inadmissible hearsay.

2. Accordingly, pursuant to Rule 56(c)(2) of the Federal Rules of Civil Procedure, these Defendants object to the attachment [21-1] and move to strike it from the record.

3. F.R.C.P. 56(c)(4) requires that an affidavit or declaration used to support or oppose a motion for summary judgment must be made on personal knowledge, set out facts that would be admissible in evidence, and show the affiant or declarant is competent to testify on the matter stated. To the extent Plaintiff has submitted the material contained in the supplement to his motion [21-1]

as an affidavit or declaration, it does not meet the requirements of F.R.C.P. 56(c)(4), and, therefore, should be stricken from the record.

WHEREFORE, PREMISES CONSIDERED, these Defendants respectfully request the Court to strike all of the materials contained in the supplement [Docket No. 21-1] to Plaintiff's Motion for Partial Summary Judgment [Docket No. 21].

Respectfully submitted, this the 23rd day of August, 2013.

F. SHAW, F. OVALLE, R. RICE, D. SMITH,
MANAGEMENT & TRAINING CORPORATION, R.
DAVIS, D. HUGGINS, M. POWE, H. HOLLIE,
A. HODGSON, V. RIVERA, AND L. PRUDE

BY: /s/ Steven J. Griffin
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CERTIFICATE OF SERVICE

I, Steven J. Griffin, hereby certify that on August 23, 2013, I electronically filed the foregoing with the Clerk of the Court using the ECF system, which provided notice to all counsel of record, and I hereby certify that I have mailed by United States Postal Service the document to the following non-ECF participants:

James C. Winding, MDOC # K-8115
c/o East Mississippi Correctional Facility
10641 Highway 80 West
Meridian, MS 39307

s/ Steven J. Griffin